

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARK MAYES,

Plaintiff,

V.

ANGIE RAYFIELD, et al.,

## Defendants.

CASE NO. C18-700RSM

## ORDER GRANTING MOTION TO DISMISS

This matter is before the Court on Defendants Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6). Defendants assert that Plaintiff's Complaint fails to satisfy federal pleading standards. The Court agrees, dismisses Plaintiff's claims, and grants Plaintiff leave to amend.

Plaintiff, proceeding pro se, filed a Complaint naming Defendants on May 15, 2018. Dkt. #5. Defendants appear to be a union and the union's representative. *Id.* at 1–2; Dkt. #13 at 2. Plaintiff indicates that the basis for the Court's jurisdiction is federal question jurisdiction and cites to "Title 7" as the federal statute that is at issue in this case. Dkt. #5 at 3. Plaintiff's Complaint alleges, simply: "I was subject to unlawfull [sic] practices. After not being represented for Illegal work place activity." *Id.* at 5. Plaintiff seeks \$1,000,000 in monetary and pain and suffering damages. *Id.*

1           In making a Rule 12(b)(6) assessment, the court accepts all facts alleged in the complaint  
2 as true, and makes all inferences in the light most favorable to the non-moving party. *Baker v.*  
3 *Riverside County Office of Educ.*, 584 F.3d 821, 824 (9th Cir. 2009) (citations omitted).  
4           However, the court is not required to accept as true a “legal conclusion couched as a factual  
5 allegation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*,  
6 550 U.S. 544, 555 (2007)). Rather, the complaint must contain sufficient facts “to state a claim  
7 to relief that is plausible on its face.” *Id.*

8           This requirement is met when the plaintiff “pleads factual content that allows the court to  
9 draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* The  
10 complaint need not include detailed allegations, but it must have “more than labels and  
11 conclusions, and a formulaic recitation of the elements of a cause of action will not do.”  
12 *Twombly*, 550 U.S. at 555. “The plausibility standard is not akin to a probability requirement,  
13 but it asks for more than a sheer possibility that a defendant has acted unlawfully. . . . Where a  
14 complaint pleads facts that are merely consistent with a defendant’s liability, it stops short of the  
15 line between possibility and plausibility of entitlement to relief.” *Iqbal*, 556 U.S. at 678 (citing  
16 *Twombly*, 550 U.S. at 556–57). Absent facial plausibility, a plaintiff’s claims are dismissed.  
17

18           Defendants argue that the Complaint solely alleges a legal conclusion—“that Plaintiff  
19 believes Defendants owe him one million dollars because he was subject to ‘unlawfull [sic]  
20 practices,’ purportedly after not being represented for ‘Illegal work place activity,’ with no  
21 further explanation.” Dkt. #13 at 5. Plaintiff responds by merely citing to various legal  
22 authorities without explaining how those authorities relate to the factual allegations he has made  
23 in this case or showing that this barebones allegations state a sufficient claim. Dkt. #15. Plaintiff  
24 has also filed a Surreply where he expands, for the first time, on the basis of his claims. This late  
25

1 filing does little to demonstrate that the factual allegations contained in the Complaint adequately  
2 state a non-conclusory claim. However, Plaintiff apparently concedes that his Complaint is  
3 deficient, indicating that he can submit a more definite statement of his claims. Dkt. #18 at 2.

4 As a whole, Plaintiff's speculation that he is entitled to relief does not allege sufficient  
5 facts to raise a plausible inference that he is entitled to relief.<sup>1</sup> *See* Fed. R. Civ. P. 8(a)(2);  
6 *Twombly*, 550 U.S. at 555. Plaintiff's brief statement is the "unadorned, the-defendant-  
7 unlawfully-harmed-me accusation" that the Supreme Court has explained is insufficient. *Iqbal*,  
8 556 U.S. at 678. The Court therefore finds that dismissal is appropriate. However, where  
9 dismissing for failure to state a claim "leave to amend should be granted unless the court  
10 determines that the allegation of other facts consistent with the challenged pleading could not  
11 possibly cure the deficiency." *Schreiber Distrib. Co. v. Serv-Well Furniture Co.*, 806 F.2d 1393,  
12 1401 (9th Cir. 1986). Here, Plaintiff appears ready and able to amend his Complaint.

13 Accordingly, having reviewed Defendants' Motion to Dismiss and the relevant portions  
14 of the record, the Court hereby finds and ORDERS that Defendants' Motion to Dismiss Pursuant  
15 to Federal Rule of Civil Procedure 12(b)(6) is GRANTED. All of Plaintiff's claims are  
16 DISMISSED. Plaintiff is granted leave to file an Amended Complaint curing the above-  
17 mentioned deficiencies **no later than thirty (30) days** from the date of this Order. Failure to file  
18 an Amended Complaint within this time period will result in this case being closed.

19  
20 DATED this 27 day of November, 2018.

21  
22  
23  
24   
25 RICARDO S. MARTINEZ  
26 CHIEF UNITED STATES DISTRICT JUDGE

---

<sup>1</sup> Defendants also correctly note that there is no individual liability under Title VII. Dkt. #13 at 4 (citing *Miller v. Maxwell's Int'l Inc.*, 991 F.2d 583, 587-88 (9th Cir. 1993)).